

## Opinion No. 18-2143

November 8, 1918

**BY:** HARRY L. PATTON, Attorney General

**TO:** H. Goodwin Co. Tucumcari, N.M.

Persons Who Make a Business of Peddling Meat of Their Own Raising Must Obtain Peddler's License, and Conform to the Law Regulating Butchers.

### OPINION

We are in receipt of your letter of recent date, in which you state that a number of people in your community have made it a custom to peddle beef on the streets at retail, selling direct to the customer. You further state that it is your belief that in a number of cases a half dozen beeves or more have been sold and only one hide exhibited.

You first inquire whether or not such parties should be required to obtain a peddler's license before engaging in such business. Sections 558 and 559, Codification of 1915, require that persons engaging in the business of peddling beef shall first obtain a peddler's license for such purpose. Chapter 83, Laws of 1915, exempts resident peddlers of fresh meats from the payment of an occupation tax or peddler's license where the meats are butchered from animals of the person's "own raising." The act further provides that this exemption shall apply only to owners of live stock who do not make a business of peddling. The act also requires that such peddler shall have in his immediate possession at the time and place of offering such meats for sale, the hide or pelt of the slaughtered animal.

In my opinion, the act of 1915 exempts a person, a resident of the state, from the payment of an occupation tax or peddler's license in case he peddles meat of his "own raising." This exemption, however, would apply only to isolated cases of peddling meat, and would not apply to one who makes a business of peddling. Stated conversely, I am of the opinion that one who makes a business of peddling meats would be required to pay the license required by section 558, Codification of 1915, although the meat peddled was of his "own raising."

You further inquire whether a peddler of meat would be required to take out a butcher's bond before plying his trade. Sections 544, 545 and 546, Codification of 1915, require that every person, before he shall set up and carry on the trade of a butcher or slaughterer of horned cattle in this state, shall file a bond of not less than \$ 1,000, nor more than \$ 5,000, conditioned that he shall keep a true and faithful record of all cattle purchased, and the date thereof, and to keep the hide and horns of said animal free to the inspection of all persons for a period of thirty days after it is slaughtered. Again referring to the provisions of Chapter 83, Laws of 1915, it may be noted that an exemption is extended to relieve certain persons from the payment of an occupation tax

and peddler's license, and that the exemption does not extend to relieve a butcher from the execution of a butcher's bond, or to relieve him from keeping a record and the hide and horns, as is required by Sections 544, 545 and 546.

In my opinion, every person, before he shall set up or carry on the trade of butcher, or slaughterer of horned cattle, must first comply with Sections 544, 545 and 546, Codification of 1915, as to executing bond and keeping of a record, and the preservation of the hide and horns, and that the provisions apply with equal force to peddlers and those who maintain a meat market.